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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,604	12/29/2000	Thomas J. Foth	F-220	8551

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EXAMINER

COFFY, EMMANUEL

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 06/07/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

8

Office Action Summary

Application No.

09/751,604

Applicant(s)

FOTH, THOMAS J.

Examiner

Emmanuel Coffy

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. This action is responsive to the application filed on December 19, 2000. Claims 1-24 are pending. Claims 1-24 are directed to a method, network device and network for a "Method For Load Balancing Of Requests For Service By Devices On a Network And a Device And a Network For Carrying Out Such Method."

Claim Objections

2. Claim 5 is objected to because of the following informalities: the word "said" in "...said initiated request to a primary service..." is ambiguous. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rune (U.S. 6,304,913) in view of Rabinovich (US 6,256). Claims 9-16 are addressed first.

a) As per claim 9, it recites:

a) a first data store storing a location code indicative of said device's geographic location; b) a second data store storing a table relating geographic location codes and network addresses for said service providers; and c) said device being programmed to

initiate a request by: c1) retrieving said location code for said device; c2) accessing said table to retrieve a service provider address associated with a service provider location code closest to said retrieved location code; and c3) addressing said initiated request with said retrieved service provider address.

Rune teaches the concept of dual storage for assignment of unique IP addresses in look-up tables and a requesting host retrieving the identification of the closest server (See column 5, lines 19-37).

Rune fails to explicitly teach about correlation of the location code to the device geographic location. However, Rabinovich at column 7, lines 50-55) discloses the geographical location concept. Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the teachings of Rune with the geographical location concept taught by Rabinovich.

Such a system would reduce the response times of a particular network by utilizing the best method. The user would enjoy smooth network access and response.

b) As for claim 10, it recites the limitation wherein said network device is a mailing device. Rune fails to teach such limitation. However, Rabinovich does teach the architecture of such a typical device at column 6, lines 18-26. Thus, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to make use of a mailing device as a network device. A mailing device equipped with a database of zip codes could better determine the relative closeness to a particular user especially in light of the fact that applicant discloses that a mailing device can communicate with a service provider. Thus, the load could geographically be better distributed.

c) As for claim 11, it recites the limitation wherein at least an approximate distance between two geographic locations can be calculated as a function of location codes corresponding to said two locations. Rune fails to teach such concept. However, Rabinovich at column 7 lines 29-53 and column 10, lines 7-12, column 3 lines 1-5 and 49-51 extensively discloses the use of geographical relationship to load balancing. It would have been obvious at the time of the invention for an artisan of ordinary skill in the art to make use of calculating an approximate distance between two geographic locations in relationship to load balancing. The relative geographic distance between a user and a server is considered in load-balancing schemes.

d) As for claim 13, 14, and 15 they are similar in scope therefore treated jointly. Claim 13 recites the limitations wherein a group of said service providers share a common location code, said device addressing said initiated request to a primary service provider in said group, and said device being further programmed to address said initiated request to an alternate service provider in said group if said device cannot log on to said primary service provider.

Both Rune and Rabinovich disclose this alternate service provider concept. Rune teaches this at column 5, lines 21-26 and column 6, lines 24-27 and Rabinovich teaches it column 8, lines 42-50.

e) As for claim 16, it recites the use of a seed system to download an updated table if said updated table becomes invalid. Applicant explains that a system can be a dedicated system or can be a designated one of service providers.

Rabinovich teaches various approaches to the maintenance of an updated table at column 21, lines 12-62. Therefore, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the teachings of Rabinovich to implement a scheme to update the table.

f) Claim 12 is rejected in view of Applicant's disclosed prior art (U.S. 4,122,526).

As for claim 12, the use of zip code as location code is obvious as evidenced by applicant's disclosure of its own prior art filed on Dec 20, 1976 and awarded on October 24, 1978. One of ordinary skill in the art confronted with the problem of geographically locating the closest server would make use of the "zip-code-to-postal zone" teachings of applicant's prior art identified as Dlugos et al. (U.S. 4,122,526).

By utilizing the closest available server, system response time is ameliorated and thus performance is improved. Hence, the user would experience smooth network access.

g) As for claims 1-8 and 17-24, they do not teach or define any significantly new limitation above and beyond claims 9-16 to warrant particular treatment, and therefore are rejected for similar reasons.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Maciel et al. (U.S. 6,112,248) teaches "Method and System For Dynamically Balancing Network Traffic Using Address Resolution Protocol."
- Dias et al. (U.S. 6,119,143) teaches " Computer System And Method For Load Balancing With Selective Control."


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Coffy whose telephone number is (703) 305-0325. The examiner can normally be reached on 8:30 - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703) 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Emmanuel Coffy
Patent Examiner
Art Unit 2157

EC
April 29, 2004


ARIO ETIENNE
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